

INDIVIDUAL PRACTICES OF JUDGE WILLIAM H. PAULEY III

Unless otherwise ordered by Judge Pauley, matters before Judge Pauley shall be conducted in accordance with the following practices:

1. Communications With Chambers

- A. **Letters.** Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.
- B. **Telephone Calls.** Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations, call chambers at (212) 805-6387.
- C. **Faxes.** Faxes to chambers are not permitted.
- D. **Docketing, Scheduling and Calendar Matters.** For docketing, scheduling and calendar matters, call Courtroom Deputy Stanley A. Pugliese at (212) 805-6387 between 8:30 a.m. and 5:00 p.m.
- E. **Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must state (1) the original date, (2) the reason(s) for the request, (3) the number of previous requests and whether they were granted, and (4) whether the adversary consents and, if not, the reasons why the adversary refuses to consent. For requests to extend discovery, additionally state what discovery has been conducted and what discovery is incomplete. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.
- F. **Inquires Concerning *Sub Judice* Motions.** If a motion is not decided within 90 days of the date that it is fully submitted or argued, whichever is later, then any party may bring this fact to the Court's attention by letter.

2. Motions

- A. Pre-Motion Conferences in Civil Cases.** For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, a pre-motion conference with the Court is generally required before making any motion, except motions brought on by order to show cause; motions for reargument; motions by incarcerated pro se litigants; motions for admission pro hac vice; and motions for attorney's fees.

To request a pre-motion conference, the moving party must submit a letter, not exceeding three pages in length, setting forth the basis for the anticipated motion. Opposition letters, no longer than three pages, must be submitted to the Court within five (5) business days of receipt of the movant's letter. Thereafter, the Court will notify the parties of the conference date. Pre-motion conferences will ordinarily be held on Friday.

- B. Courtesy Copies.** Courtesy copies of pleadings and motion papers, marked as such, shall be submitted to chambers as soon as practicable after filing. All exhibits should be tabbed and indexed.

- C. Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents and a table of cases.

Citations to New York and United States Supreme Court cases shall contain citations to the official reporter and parallel cites to New York Supplement and Supreme Court Reporter, respectively.

- D. Filing of Motion Papers.** Motion papers shall be filed promptly after service. The moving party is responsible for furnishing chambers with a letter specifying each motion paper and memorandum filed by any party in connection with the motion. The moving party shall furnish this letter with its reply memorandum.

- E. Oral Argument on Motions.** The Court will notify counsel if oral argument is required. Oral argument will ordinarily be held on Friday.

3. Pretrial Procedures

- A. Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- viii. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, including expert witnesses, if any, and a statement indicating whether such witnesses will testify in person or by deposition.
- ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
- x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- i. In jury cases, requests to charge and proposed voir dire questions; and where applicable, a proposed special verdict form. The parties must submit a single, unified set of proposed jury instructions on the law applicable to the specific case; where an instruction is not agreed upon, the parties should indicate who is proposing the instruction and the legal basis for the instruction and for the other party's opposition to the instruction. The proposed jury charges shall also be submitted on a 3.5" diskette in WordPerfect version 5.1 or higher format;
- ii. In nonjury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- iii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and
- iv. In any case where such party believes it would be useful, a pretrial memorandum.

4. Default Judgments

A. Applications. Applications for default judgments will not be accepted absent the following:

- i. A description of the nature of the claim;
- ii. An affidavit representing that this Court has subject matter jurisdiction over the action;
- iii. An affidavit representing that this Court has personal jurisdiction over the defendant;
- iv. An affidavit representing that the defendant is not an infant or an incompetent;
- v. A certificate of default stating that the defendant was properly served and failed to answer/appear, signed and stamped by the Clerk of the Court. (If the defendant did appear in the action, the plaintiff must submit an affidavit representing that the defendant has notice of the application for default);
- vi. Fair attorneys' fees, if attorneys' fees are sought; and

- vii. All appropriate substantiating documentation.
(Generally, a copy of the complaint satisfies (i), (ii), and (iii).)

B. Damages. If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:

- i. A request for an amount equal to or less than the principal amount demanded in the Complaint;
- ii. Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. (If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will be determined by an inquest);
- iii. An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;
- iv. A request for interest on the principal amount not to exceed 9%, if interest is sought; and
- v. The calculations made in arriving at the proposed judgment amount.